

IV. REMARKS

This amendment is responsive to the Office Action Dated February 16, 2005. Claims 1, 8, 11 and 15 have been amended. Claims 1 through 15 remain pending in this application.

In paragraph 1 of the Office Action, the Examiner objected to the drawings. Appended hereto are replacement drawings provided in compliance with 37 CFR 1.121(d). No new subject matter has been added.

Claims 1-12 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Howard (US 1,256,232) in view of Zemar (US 6,764,197) and Shaw (US 2,631,247).

Claim 1 amongst other features recites a fixture enclosure mounted on the end the flag pole and a light source mounted within the fixture enclosure so that the light source is located at the end of the flag pole and above the raised flag. Claim 1 further recites that light from the light source (within the fixture enclosure above the raised flag) is angled down to illuminate a region where the flag hangs below the end of the flag pole where the fixture enclosure directs light from the light source illuminating substantially only the flag. Howard, Zemar and Shaw do not disclose or suggest these features.

Howard (US 1,256,232) discloses an illuminating device for a flag pole 1 having a cap 5. A series of light bulbs 8 are strung from the cap and connected to battery 4 via switch 7. The portion of the pole 1 behind the edge of flag 2 has lenses 10 with bulbs 8 behind the lenses 10 and further having reflectors 11 behind bulbs 8. Light is projected through the lenses 10 in pole 1 upon the waving surface of the flag.

Zemar (US 6,764,197) discloses an ornamental spotlight 10 having housing 12, lamp 14, reflector 16 and clear dome 20. Solar panel 22 charges batteries and a photo detector 24 activations switch provides power at night. A swivel mounted base 34 is used for attaching the light to a house or building. Flagpole 50 with flag 52 are attached to building 48 with the spotlight 54 also mounted on the building below the flag (Fig. 6, column 4, lines 61-65)

Shaw (US 2,631,247) discloses a photocell mounting device - a test fixture for mounting and testing radiation sensitive elements such as photocells. Photocell 66 has element 71 facing test window 38 and is housed in dome shaped shield 10 made of filtered plastic or glass. Shield 10 is mounted within housing base 18. Base 18 has projection 34 with opening 36 covered by test window 38 and houses test lamp 42 inclined to shine on shield 10.

Shaw (US 2,631,247) is not analogous prior art as it is not in the field of applicant's endeavor or reasonably pertinent to the particular problem with which the inventor was concerned. Shaw (US 2,631,247) is in a different field of endeavor because it involves a test fixture for mounting and testing radiation sensitive elements such as photocells, whereas the claimed invention involves an automatic flag illumination system for illuminating flags on flag poles. Additionally, Shaw (US 2,631,247) is not reasonably pertinent to the particular problem with which the inventor was concerned as Shaw (US 2,631,247) is directed to testing photocells as opposed to the problem with which the Applicant was concerned of actuating a light source on top of a flag pole. Additionally, the structure and function of Shaw (US 2,631,247) is so different than the disclosure in Howard

and Zemar that it is respectfully submitted one skilled in the art would not have been motivated to combine Shaw with Zemar and Howard. Shaw discloses a removable test fixture for testing photocells with lamp 42 illuminating photocell 66. By its very nature (i.e. testing) the photocell testing fixture in Shaw is removable/interchangeable to allow testing of various photocells. By comparison, there is no mention of testing of any kind in either Howard or Zemar, and there is no mention of any interchangeable portion having a photocell. Moreover, the test fixture in Shaw has a lamp 42 that illuminates the photocell 66 being tested in the fixture. Howard and Zemar disclose something very different in that the photocell 24 in Zemar provides the actuation to the lamp 14 to illuminate something other (a flag) than the photocell itself (as in Shaw). Shaw (US 2,631,247) is not analogous prior art and it simply would not have been obvious to one skilled in the art to combine Shaw with Howard and Zemar.

Even if, for arguments sake, Shaw (US 2,631,247) is considered analogous art, though applicant maintains it is not, the features of claim 1 are neither disclosed or suggested by Howard (US 1,256,232), Zemar (US 6,764,197) or Shaw (US 2,631,247) either alone or in combination.

Nowhere in Howard (US 1,256,232), Zemar (US 6,764,197) or Shaw (US 2,631,247) is there a disclosure or suggestion of a fixture enclosure mounted on the end the flag pole with the light source in the fixture enclosure located at the end of the flag pole and above the raised flag as claimed in claim 1. Instead, Howard (US 1,256,232) discloses a series of light bulbs 8 strung from the cap inside the pole projecting light through the lenses 10 in pole 1 horizontally upon the waving surface of the flag which is different than a fixture enclosure mounted on the end the flag

pole and above the raised flag as claimed in claim 1. Instead, Zemar (US 6,764,197) discloses ornamental spotlight 10 separately mounted on a building below a flag which is different than a fixture enclosure mounted on the end the flag pole and above the raised flag as claimed in claim 1. Instead, Shaw (US 2,631,247) discloses a test fixture for testing photocells with lamp 42 illuminating photocell 66 which is different than a fixture enclosure mounted on the end the flag pole and above the raised flag as claimed in claim 1.

Nowhere in Howard (US 1,256,232), Zemar (US 6,764,197) or Shaw (US 2,631,247) is there a disclosure or suggestion of a first interchangeable section removably mounted to the fixture enclosure having a mounted light sensitive device as claimed in claim 1. Instead, Howard (US 1,256,232) discloses cap 5 and vane 13 with no disclosure or suggestion of a first interchangeable section removably mounted to the fixture enclosure and having a mounted light sensitive device as claimed in claim 1. Instead, both Zemar (US 6,764,197) and Shaw (US 2,631,247) are silent on having first and second interchangeable sections as recited in claim 1.

Nowhere in Howard (US 1,256,232), Zemar (US 6,764,197) or Shaw (US 2,631,247) is there a disclosure or suggestion of where light from the light source is angled down to illuminate a region where the flag hangs below the end of the flag pole where the fixture enclosure directs light from the light source illuminating substantially only the flag as required by claim 1. Instead, Howard (US 1,256,232) discloses a series of light bulbs 8 strung from the cap inside the pole projecting light through the lenses 10 in pole 1 horizontally upon the waving surface of the flag which is different than where light from the light source is

angled down to illuminate a region where the flag hangs below the end of the flag pole where the fixture enclosure directs light from the light source illuminating substantially only the flag as recited by claim 1. Instead, Zemar (US 6,764,197) discloses ornamental spotlight 10 separately mounted on a building below a flag which is different than where light from the light source is angled down to illuminate a region where the flag hangs below the end of the flag pole where the fixture enclosure directs light from the light source illuminating substantially only the flag as required by claim 1. Instead, Shaw (US 2,631,247) discloses a test fixture for testing photocells with lamp 42 illuminating photocell 66 which is different than where light from the light source is angled down to illuminate a region where the flag hangs below the end of the flag pole where the fixture enclosure directs light from the light source illuminating substantially only the flag as recited by claim 1. Zemar, Howard and Shaw fail to disclosure or suggest the features recited in claim 1. Accordingly, the combination of Howard, Zemar and Shaw cannot provide features that are not recited in any of the references.

For the reasons set forth above regarding claim 1, the features of claim 1 are neither disclosed or suggested by Howard (US 1,256,232), Zemar (US 6,764,197) or Shaw (US 2,631,247) either alone or in combination. Accordingly claim 1 is patentable over Howard (US 1,256,232) in view of Zemar (US 6,764,197) and Shaw (US 2,631,247).

Claims 2-7 all depends upon claim 1. For the reasons set forth above regarding claim 1, claims 2-7 are patentable over Howard (US 1,256,232) in view of Zemar (US 6,764,197) and Shaw (US 2,631,247).

Claim 8 is at least in part similar to claim 1 in that claim also recites a fixture enclosure mounted on a top end of a flag pole and above a raised flag and a light source mounted within the fixture enclosure so that the light is located at the top of the flag pole, above the raised flag and angled down to illuminate a region where the flag hangs below the end of the flag pole and illuminating substantially only the flag. Claim 8 also recites that an interchangeable section 20 is supported by the fixture enclosure 42. The system 10 is movable and mountable as a unit from the flag pole to a different flag pole.

As noted before Shaw (US 2,631,247) is not analogous prior art as it is not in the field of applicant's endeavor or reasonably pertinent to the particular problem with which the inventor was concerned. Additionally, one skilled in the art would not have been motivated to combine Shaw with Howard and Zemar.

Even if, for arguments sake, Shaw (US 2,631,247) is considered analogous art, though applicant maintains it is not, the features of claim 8 are neither disclosed nor suggested by Howard (US 1,256,232), Zemar (US 6,764,197) or Shaw (US 2,631,247) either alone or in combination.

Nowhere in Howard (US 1,256,232), Zemar (US 6,764,197) or Shaw (US 2,631,247) is there a disclosure or suggestion of a fixture enclosure mounted on a top end of a flag pole and above a raised flag with a light source in the fixture so that the light source is at the top end of the flag pole, above the raised flag as called for in claim 8. Instead, Howard (US 1,256,232) discloses a series of light bulbs 8 strung from the cap inside the pole projecting light through the lenses 10 in pole 1 horizontally upon the waving surface of the flag which is different than a

fixture enclosure mounted on a top end of a flag pole and above a raised flag as called for in claim 8. Instead, Zemar (US 6,764,197) discloses ornamental spotlight 10 separately mounted on a building below a flag which is different than a fixture enclosure mounted on a top end of a flag pole and above a raised flag as claimed in claim 8. Instead, Shaw (US 2,631,247) discloses a test fixture for testing photocells with lamp 42 illuminating photocell 66 which is different than a fixture enclosure mounted on a top end of a flag pole and above a raised flag as claimed in claim 8.

Nowhere in Howard (US 1,256,232), Zemar (US 6,764,197) or Shaw (US 2,631,247) is there a disclosure or suggestion of a light source mounted within the fixture enclosure and angled down to illuminate a region where the flag hangs below the end of the flag pole and illuminating substantially only the flag as recited in claim 8. Instead, Howard (US 1,256,232) discloses a series of light bulbs 8 strung from the cap inside the pole projecting light through the lenses 10 in pole 1 horizontally upon the waving surface of the flag which is different than a light source mounted within the fixture enclosure and angled down to illuminate a region where the flag hangs below the end of the flag pole and illuminating substantially only the flag as recited in claim 8. Instead, Zemar (US 6,764,197) discloses ornamental spotlight 10 separately mounted on a building below a flag which is different than a light source mounted within the fixture enclosure and angled down to illuminate a region where the flag hangs below the end of the flag pole and illuminating substantially only the flag as recited in claim 8. Instead, Shaw (US 2,631,247) discloses a test fixture for testing photocells with lamp 42 illuminating photocell 66 which is different than a light source mounted within the fixture enclosure and angled down

to illuminate a region where the flag hangs below the end of the flag pole and illuminating substantially only the flag as recited in claim 8.

Nowhere in Howard (US 1,256,232), Zemar (US 6,764,197) or Shaw (US 2,631,247) is there a disclosure or suggestion of the system being movable and mountable as a unit from the flag pole to a different flag pole as claimed in claim 8. Instead, Howard (US 1,256,232) discloses cap 5 and vane 13 with no disclosure or suggestion of the system itself being movable and mountable as a unit from the flag pole to a different flag pole as claimed in claim 8. Indeed, the system in Howard appears to be permanently installed inside the flag pole. Also both Zemar (US 6,764,197) and Shaw (US 2,631,247) are silent on having the system being movable and mountable as a unit from the flag pole to a different flag pole as claimed in claim 8.

As neither Howard, Zemar or Shaw fail to disclose or suggest the features called for in claim 8, then the combination of Howard, Zemar and Shaw can not provide features that are not disclosed or suggested in any reference. For the reasons set forth above regarding claim 8, the features of claim 8 are neither disclosed or suggested by Howard (US 1,256,232), Zemar (US 6,764,197) or Shaw (US 2,631,247) either alone or in combination. Accordingly claim 8 is patentable over Howard (US 1,256,232) in view of Zemar (US 6,764,197) and Shaw (US 2,631,247).

Claims 9-12 and 14 all depends upon claim 8. For the reasons set forth above regarding claim 8, claims 9-12 and 14 are patentable over Howard (US 1,256,232) in view of Zemar (US 6,764,197) and Shaw (US 2,631,247).

Claims 13 was rejected under 35 U.S.C. 103(a) as being unpatentable over Howard (US 1,256,232), Zemar (US 6,764,197) and Shaw (US 2,631,247) and further in view of Doppelt (US 6,802,630).

Claim 13 depends upon claim 11. Claim 11 depends upon claim 8. For the reasons set forth above regarding claim 8, claim 13 is patentable over Howard (US 1,256,232) in view of Zemar (US 6,764,197) and Shaw (US 2,631,247) and further in view of Doppelt (US 6,802,630).

Claim 15 was rejected under 35 U.S.C. 103(a) as being unpatentable over Howard (US 1,256,232), Zemar (US 6,764,197) and Shaw (US 2,631,247) and further in view of Doppelt (US 6,802,630).

Claim 15 recites a method for illuminating a flag on a flag pole having steps of providing an enclosure mounted on a top end of the flag pole and above a raised flag; providing a light source mounted within the enclosure and angled down to illuminate a region where the flag hangs below the end of the flag pole and illuminating substantially only the flag; providing a first removable section capable of being removably mounted to the enclosure; providing a light sensitive device removably mounted on the first removable section, with the light sensitive device being adapted to activate the light source at dusk; providing an electrical disconnect electrically coupling the light sensitive device to the light source, the electrical disconnect being adapted to be repeatedly coupled and decoupled; providing a second removable section capable of being removably mounted to the enclosure and being adapted for mounting the light sensitive

device thereon; and selectably mounting the first removable section or second removable section on the enclosure.

Howard (US 1,256,232) discloses an illuminating device for a flag pole 1 having a cap 5. A series of light bulbs 8 are strung from the cap and connected to battery 4 via switch 7. The portion of the pole 1 behind the edge of flag 2 has lenses 10 with bulbs 8 behind the lenses 10 and further having reflectors 11 behind bulbs 8. Light is projected through the lenses 10 in pole 1 upon the waving surface of the flag.

Zemar (US 6,764,197) discloses an ornamental spotlight 10 having housing 12, lamp 14, reflector 16 and clear dome 20. Solar panel 22 charges batteries and a photo detector 24 activations switch provides power at night. A swivel mounted base 34 is used for attaching the light to a house or building. Flagpole 50 with flag 52 are attached to building 48 with the spotlight 54 also mounted on the building below the flag (Fig. 6, column 4, lines 61-65)

Shaw (US 2,631,247) discloses a photocell mounting device - a test fixture for mounting and testing radiation sensitive elements such as photocells. Photocell 66 has element 71 facing test window 38 and is housed in dome shaped shield 10 made of filtered plastic or glass. Shield 10 is mounted within housing base 18. Base 18 has projection 34 with opening 36 covered by test window 38 and houses test lamp 42 inclined to shine on shield 10.

Doppelt (US 6,802,630) discloses a lamp post with a quick disconnect feature. The lamppost 10 has lower post 12 and upper pole 14 having light globes 16. Upper pole 14 has male plug 18

and lower pole 12 has female plug 20. Upper pole 14 is disconnectable from lower pole 12.

Again, as noted before, Shaw (US 2,631,247) is not analogous prior art as it is not in the field of applicant's endeavor or reasonably pertinent to the particular problem with which the inventor was concerned as required by MPEP 2141.01(a).

Even if, for arguments sake, Shaw (US 2,631,247) is considered analogous art, though applicant maintains it is not, the features of claim 15 are neither disclosed or suggested by Howard (US 1,256,232), Zemar (US 6,764,197) Shaw (US 2,631,247) or Doppelt (US 6,802,630) either alone or in combination.

Nowhere in Howard (US 1,256,232), Zemar (US 6,764,197), Shaw (US 2,631,247) or Doppelt (US 6,802,630) is there a disclosure or suggestion of providing an enclosure mounted on a top end of the flag pole and above a raised flag as claimed in claim 15. Instead, Howard (US 1,256,232) discloses a series of light bulbs 8 strung from the cap inside the pole projecting light through the lenses 10 in pole 1 horizontally upon the waving surface of the flag which is different than providing an enclosure mounted on a top end of the flag pole and above a raised flag as claimed in claim 15. Instead, Zemar (US 6,764,197) discloses ornamental spotlight 10 separately mounted on a building below a flag which is different than providing an enclosure mounted on a top end of the flag pole and above a raised flag as claimed in claim 15. Instead, Shaw (US 2,631,247) discloses a test fixture for testing photocells with lamp 42 illuminating photocell 66 which is different than providing an enclosure mounted on a top end of the flag pole and above a raised flag as claimed in claim 15.

Instead, Doppelt (US 6,802,630) discloses a lamp post having light globes which is different than providing an enclosure mounted on a top end of the flag pole and above a raised flag as claimed in claim 15.

Nowhere in Howard (US 1,256,232), Zemar (US 6,764,197), Shaw (US 2,631,247) or Doppelt (US 6,802,630) is there a disclosure or suggestion of providing a light source mounted within the enclosure and angled down to illuminate a region where the flag hangs below the end of the flag pole and illuminating substantially only the flag as required by claim 15. Instead, Howard (US 1,256,232) discloses a series of light bulbs 8 strung from the cap inside the pole projecting light through the lenses 10 in pole 1 horizontally upon the waving surface of the flag which is different than providing a light source mounted within the enclosure and angled down to illuminate a region where the flag hangs below the end of the flag pole and illuminating substantially only the flag as required by claim 15. Instead, Zemar (US 6,764,197) discloses ornamental spotlight 10 separately mounted on a building below a flag which is different than providing a light source mounted within the enclosure and angled down to illuminate a region where the flag hangs below the end of the flag pole and illuminating substantially only the flag as required by claim 15. Instead, Shaw (US 2,631,247) discloses a test fixture for testing photocells with lamp 42 illuminating photocell 66 which is different than providing a light source mounted within the enclosure and angled down to illuminate a region where the flag hangs below the end of the flag pole and illuminating substantially only the flag as required by claim 15. Instead, Doppelt (US 6,802,630) discloses a lamp post having light globes which is different than providing a light source mounted within the enclosure and angled down to illuminate a

region where the flag hangs below the end of the flag pole and illuminating substantially only the flag as required by claim 15.

Nowhere in Howard (US 1,256,232), Zemar (US 6,764,197) Shaw (US 2,631,247), or Doppelt (US 6,802,630) is there a disclosure or suggestion of providing a light sensitive device removably mounted on a first removable section as claimed in claim 15. Instead, Howard (US 1,256,232) discloses cap 5 and vane 13 with no disclosure or suggestion of providing a light sensitive device removably mounted on a first removable section as claimed in claim 15. Instead, Zemar (US 6,764,197), Shaw (US 2,631,247) and Doppelt (US 6,802,630) are silent on having first and second removable sections as required by claim 15.

Neither Howard, Zemar, Shaw or Doppelt disclose or suggest the features recited in claim 15, and the combination of these references will not provide features that are not disclosed or suggested in any reference.

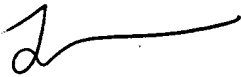
For the reasons set forth above regarding claim 15, the features of claim 15 are neither disclosed or suggested by Howard (US 1,256,232), Zemar (US 6,764,197), Shaw (US 2,631,247) or Doppelt (US 6,802,630) either alone or in combination. Accordingly claim 15 is patentable over Howard (US 1,256,232) in view of Zemar (US 6,764,197) and Shaw (US 2,631,247) and further in view of Doppelt (US 6,802,630).

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable

reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



Janik Marcovici
Reg. No. 42,841

5/16/05
Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date indicated below as first class mail in an envelope addressed to the Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 5/16/05

Signature: Janik Marcovici
Person Making Deposit